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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant : Von Schuckmann et al.
Serial No. : 09/646,140
Filed : September 13, 2000
Title : INHALATION DEVICE

Art Unit : 3727
Examiner : Unknown

BOX PCT
Office of PCT Legal Administration
Commissioner for Patents
Washington, D.C. 20231

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13 MAY 2002
Legal Staff
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RESPONSE TO NOTICE REGARDING DECLARATION

In response to the Notice mailed March 1, 2002 (copy enclosed), applicants submit herewith the following:

- ☒ A replacement Combined Declaration and Power of Attorney for the inventor, Alfred von Shuckmann, in compliance with 37 CFR §1.497.

It is understood that this perfects the application and no additional papers or filing fees are required. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: April 30, 2002

William E. Booth
William E. Booth
Reg. No. 28,933

Fish & Richardson P.C.
225 Franklin Street
Boston, Massachusetts 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, BOX PCT, Office of PCT Legal Administration, Washington, D.C. 20231.

May 1, 2002
Date of Deposit

Jennifer Leveille
Signature

Jennifer Leveille
Typed or Printed Name of Person Signing Certificate



MAR 01 2002

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FISH & RICHARDSON, P.C.
BOSTON OFFICEIn re Application of
VON SCHUCKMANN, Alfred, et al.
U.S. Application No.: 09/646,140
PCT No.: PCT/SE99/00416
International Filing Date: 16 March 1999
Priority Date: 17 March 1998
Attorney's Docket No.: 06275-218001
For: INHALATION DEVICE

NOTIFICATION	Docketed By	Patent Systems
	Action Code	Resp 2m
	Base Date	3-1-02
	Due Date	5-1-02
	Deadline	9-1-02
Initial		JMG

Applicants filed a "Request For Corrected Official Filing Receipt." In effect, applicants seek to have the existing Form PCT/DO/EO/903 vacated and for the United States Patent and Trademark Office (PTO) to issue a corrected Form PCT/DO/EO/903 and a corrected filing receipt.

BACKGROUND

On 16 March 1999, applicants filed international application PCT/SE99/00416, which claimed a priority date of 17 March 1998 and which designated the United States. A copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB") on 23 September 1999.

On 13 September 2000, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 17 October 2000, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration in compliance with 37 CFR 1.497 (a)-(b) and the fee for late filing of the oath or declaration were required.

On 15 November 2000, applicants filed Response to Notification of Missing Requirements, accompanied by, *inter alia*, a combined declaration and power of attorney and the fee for late filing of the declaration.

On 20 April 2001, applicants filed the instant request to amend the "filing date" to 13 September 2000.

DISCUSSION

The date under the heading "filing date" on the filing receipt of a national stage application is the date upon which applicant completes the requirements under 35 U.S.C. §371(c). MPEP §1895.01 (A) (August 2001). Those requirements are submission of: (1) the national fee; (2) a copy of the international application; (3) a translation of the application if it is not in English; and (4) an oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b). 35 U.S.C. §371(c).

Due	5-1-02
Excluded	9-1-02
Initials	JMG

The record reflects that on 13 September 2000, PTO had received, *inter alia*, (1) the basic national fee and (2) a copy of the international application. Regarding (3), the international application was published in English on 23 September 1999.

On 15 November 2000, PTO received a combined declaration and power of attorney. However, the declaration is not in compliance with 37 CFR 1.497(a)-(b). Pages 4 and 5 of the declaration both identify Schuckmann and Tiedemann, but are separately signed by the inventors. This suggests that the declaration that was filed is in fact a composite declaration assembled by separately executed declarations by Schuckmann and Tiedemann. Because the complete declaration that was executed by Schuckmann or Tiedemann has not been furnished, the requirements under 37 CFR 1.497(a) have not been satisfied.

As such, the filing receipt mailed 28 December 2000 and the Notice of Acceptance (Form PCT/DO/EO/903) mailed 06 December 2000, each indicating that the 35 U.S.C. §371 requirements were met on 15 November 2000, issued in error.

CONCLUSION

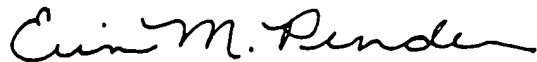
As discussed above, the request to correct the filing receipt is **REFUSED**.

The Notice of Acceptance (Form PCT/DO/EO/903) mailed 06 December 2000 is **VACATED**.

A proper response, i.e. an oath or a declaration in compliance with 37 CFR 1.497(a)-(b), must be filed within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. No additional petition fee is required. This time period for reply may be extended under the provisions of 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to await receipt of the declaration.



Erin M. Pender
Attorney Advisor
PCT Legal Administration



Boris Milef
PCT Legal Examiner
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459